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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,863	09/29/2006	Shoji Yuyama	2006_1250A	9780
513	7590	12/23/2009	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P.			MAZUMDAR, SONYA	
1030 15th Street, N.W.,			ART UNIT	PAPER NUMBER
Suite 400 East				1791
Washington, DC 20005-1503				
			MAIL DATE	DELIVERY MODE
			12/23/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/587,863	YUYAMA ET AL.	
	Examiner	Art Unit	
	SONYA MAZUMDAR	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 23 September 2009.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1 and 2 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1 and 2 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Response to Arguments

1. Applicant's amendment, see page 11 in remarks filed September 23, 2009, with respect to the objection of claim 1, have been fully considered, and the objection has been withdrawn.
2. Applicant's amendments, see page 11 in the remarks, with respect to the rejection of claims 1 and 2 under 35 USC 112, 6th paragraph, have been fully considered, and the rejection has been withdrawn.
3. Applicant's arguments with respect to claims 1 and 2 have been considered but, in light of amendments, are moot in view of the new ground of rejection.

Furthermore, the labeling apparatus, as presently claimed, has the support rollers, rotation unit, and an endless member configured to rotate the vial. It is agreed that Yuyama (JP 2001-130504) does not specifically teach providing an endless member.

However, Hoffman (US 3,765,991) teaches a labeling station, the point at which the labels are applied to the containers, comprising a rotatable, rubber drum type-arrangement (D) having a pair of spaced apart members in a circular shape (i.e. support rollers) (422) to receive a container, subsequently retain the container, label the container (i.e. contact the outer surfaces of the containers), and after labeling, release a container at the desired point (Figure 1). Also, the arrangement may, in alternative, consist of any suitable type of arrangement, such as an endless chain or belt, which may be constructed to receive a container, transport it to the labeling station and

discharge a labeled container at a discharge point (column 3, lines 9-50; column 4, lines 33-38).

Therefore, the rejection is maintained in view of Yuyama in view of Hoffman.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yuyama in view of Hoffman.

Yuyama teaches a labeling apparatus, comprising:

- three support rollers (92, 93), each support roller being configured to come into contact with an outer surface of a vial (11) to hold and rotate the vial;
- an arm (110) for rotatably supporting the support rollers;
- a rotation unit (76) configured to rotate the vial being held by the support rollers in a predetermined direction;
- a label supply unit (85) configured to supply labels to be attached to the outer surface of the vial; and
- a size detection member supported by a first support roller and a second support roller (92) of the three support rollers (paragraph 0038), the endless member being configured to rotate along the outer surface of the vial according to the rotation of the vial between the first support roller and the second support roller, wherein each label fed from the label supply unit comes into contact with the first support roller first, and a tip end of each label that is in an attaching process in

accordance with the rotation of the vial comes into contact with the second support roller second (Drawing 13).

Yuyama does not specifically teach providing an endless member which rotates according to the rotation of the vial. However, it would have been obvious to one having ordinary skill in the art to do so, as Hoffman (US 3,765,991) teaches a labeling station, the point at which the labels are applied to the containers, comprising a rotatable, rubber drum type-arrangement (D) having a pair of spaced apart members in a circular shape (i.e. rollers) (422) to receive a container, subsequently retain the container, label the container (i.e. contact the outer surfaces of the containers), and after labeling, release a container at the desired point; one roller to label a container coming into contact first, and a second support roller coming into contact with a container after it is labeled (column 10, lines 51-56). The arrangement may, in alternative, consist of any suitable type of arrangement, such as an endless chain or belt, which may be constructed to receive a container, transport it to the labeling station and discharge a labeled container at a discharge point (column 3, lines 9-50; column 4, lines 33-38).

With respect to claim 2, Yuyama teaches providing the support rollers in a vertical orientation within a range of the height of the vial (Drawing 12).

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SONYA MAZUMDAR whose telephone number is (571)272-6019. The examiner can normally be reached on 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip Tucker can be reached on (571) 272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SM

/Philip C Tucker/
Supervisory Patent Examiner, Art Unit 1791